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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,821	11/17/2003	Yoko Yamashita	9319S-000580	2183
27572 7590 08/14/2007 HARNESSE, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			EXAMINER THOMASSON, MEAGAN J	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 08/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/714,821

Applicant(s)

YAMASHITA, YOKO

Examiner

Meagan Thomasson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Geiger (US 4,650,190).

Regarding claims 1 and 7, Geiger discloses a gaming machine comprising a gaming board which is constructed so that a game ball is movable on a front surface side of the game board (col. 4, lines 31-37; col. 2, lines 35-43); a game mechanism which includes a shooting portion for shooting the game ball onto the front surface side of the game board (col. 4, lines 31-37); and game components arranged on the game board so that the game ball moving on the front surface of the game board may be capable of winning a prize (col. 4, lines 31-37); wherein the game mechanism is capable of changing-over, at least between a first playable state, wherein a first game is playable with an inclination angle of the front surface of the game board relative to a virtual horizontal plane exceeding a predetermined angle, and a second playable state where a second game is playable with the inclination angle equal to or less than the predetermined angle (col. 2, lines 45-68).

Regarding the limitation that the inclination angle of the game board relative to the horizontal is substantially 90 degrees, Fig. 1 shows the inclination angle may be adjusted to "substantially" 90 degrees. By the broadest reasonable interpretation of the phrase "substantially 90 degrees" to mean "some value greater than 0 degrees", Geiger meets the limitations of the invention as claimed.

Regarding claim 2, Geiger discloses the game machine further comprises an attitude change-over/holding mechanism capable of altering the inclination angle by changing an installation attitude of a game machine body which includes the game board and the game mechanism, and holding the game machine body at various installation attitudes (col. 2, lines 45-68).

Regarding claim 3, Geiger discloses the game machine further comprises a first control portion which, when supplied with a control instruction for changing-over the playable state, causes the attitude change-over/holding mechanism to change the installation attitude of the game machine body (col. 2, lines 9-11).

Regarding claim 8, Geiger discloses the game machine further comprises a game machine body housing the game board and the game mechanism, and a mechanism selectively altering the inclination angle by changing an installation attitude of the game machine body (col. 4, lines 31-37).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4, 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger (US 4,650,190) in view of Borg (US 5,112,049).

Regarding claims 4, 5 and 9, as described above, Geiger discloses a gaming machine featuring a game board, a game mechanism, and game components, wherein the game board may be tilted relative to a virtual horizontal plane in order to increase or decrease the angle of inclination of the game board. Geiger does not disclose a first holding portion, which arranges and holds the game components for the first game at a first predetermined position in the game board in the first playable state, and a second holding portion which arranges and holds the game components for the second game, at a second predetermined position in the game board in the second playable state. The game components of Geiger are stationary, and their positions do not change during game play. However, Borg discloses a gaming machine that replaces game components with different game components during game play (abstract; col. 1, lines 29-36). Further, Borg discloses a control portion which, when supplied with a control

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instruction, causes the first holding portion to arrange the game components for the first game at the first predetermined position; and, when supplied with a second control instruction for changing-over the game machine, causes the second holding portion to arrange the game components for the second game at a second predetermined position (col. 3, lines 35-50). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Geiger and Borg due to their analogous inventions, namely gaming machines featuring a game board constructed so that a game ball may be movable on the front surface of said game board, a game mechanism which includes a shooting portion, game components arranged on the game board, and multiple playable states of said gaming machine. One would have been motivated to do so in order to increase player excitement by offering a variety of playable states, including altering the game board inclination angle and presenting different game components.

Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geiger in view of what is obvious to one of ordinary skill in the art.

Regarding claims 6 and 10, wherein the gaming machine as described above further comprises a storage portion which stores first image data concerning images for the first game, and second image data concerning images for the second game; an image display portion which displays the images for the respective games, and a display control portion which causes the image display portion to display the image for the first game based on the first image data in the first playable state, and which causes

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the image display portion to display the image for the second game based on the second image data in the second playable state, Geiger discloses that the game machine may present visual and audio stimulation to a player in accordance with the current game play state of the gaming machine. Specifically, Geiger discloses that "when playing with an increased degree of difficulty (increased slope of the playing plate) an audible signal or another additional sound may be generated. Additionally light effects may be produced" (col. 3, lines 44-49). Thus, while Geiger does not specifically disclose utilizing a display, first image data and second image data, it would have been an obvious addition to one of ordinary skill in the art in light of the disclosure by Geiger to produce different visual and audio effects at different playable games states. One would have been motivated to do so in order to increase player stimulation and involvement in the game.

Response to Arguments

Applicant's arguments filed February 21, 2007 have been fully considered but they are not persuasive.

Specifically, applicant argues that Geiger fails to describe a game machine with a game mechanism that changes over between playable states for a first game and a second game. However, this argument is not found to be persuasive by the examiner for the following reasons: the first playable state disclosed by Geiger exists when the game board is adjusted relative to the horizontal and exceeding some predetermined angle as claimed, as the game board in this inclination enables a ball rolling over the

surface to move at a higher speed. The second playable state exists when the inclination angle of the game board to the horizontal is at some value less than a predetermined angle, as this enables a ball rolling over the surface to move at a slower speed. This higher speed creates the first playable state for a first game that is distinct from the second playable state for a second game, in that the first game is of an increased difficulty relative to the second game.

Additionally, applicant argues that Geiger does not disclose a first game playable with an inclination angle of the front surface of the game board of substantially 90 degrees. However, the examiner does not find this argument persuasive for reasons described in the above rejection. Specifically, the phrase "of substantially 90 degrees" may be reasonably interpreted to mean "some value greater than 0 degrees".

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan Thomasson whose telephone number is (571) 272-2080. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Meagan Thomasson
August 3, 2007


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TC3700